

Minutes of the Special and Regular Meeting of June 13, 2006

**SPECIAL MEETINGS**

**CLOSED SESSIONS - 5:30 P.M.**

- A. Conference with Legal Counsel Per Government Code Section 54956.9, potential litigation: Two Cases.
- B. Conference with Labor Negotiator, Maureen Cassingham, pursuant to Government Code Section No. 54957.6: BPOA

Attended by Councilmembers Feierbach, Warden, Dickenson, Lieberman, Mathewson, Interim City Manager Cassingham, City Attorney Zafferano, Lee Rosenthal, Redevelopment Counsel (Item A only), Finance Director Fil, Community Development Director de Melo, Police Chief Mattei, Interim Human Resources Director Sam (Item B only), Fran Buchanan (Negotiator, Item B only). City Clerk Cook was excused from attending.

**ADJOURNMENT** at this time, being 7:35 P.M., these special meetings were adjourned.

Terri Cook

City Clerk

Meeting not tape recorded or videotaped.

**REGULAR MEETING**

**CALL TO ORDER 7:30 P.M.**

**ROLL CALL**

COUNCILMEMBERS PRESENT: Feierbach, Lieberman, Dickenson, Warden, Mathewson

COUNCILMEMBERS ABSENT: None

Staff Present: Interim City Manager Cassingham, City Attorney Zafferano, Community Development Director de Melo, Public Works Director Davis, Police Chief Mattei, Finance Director Fil, Interim Human Resources Director Sam, Information Services Manager Harnish, Interim Parks and Recreation Director Bridges, City Clerk Cook.

### **PLEDGE OF ALLEGIANCE**

Led by City Clerk Cook.

### **REPORT FROM CLOSED SESSIONS**

Mayor Mathewson stated that direction was given but no action taken during the Closed Sessions held earlier.

### **SPECIAL PRESENTATIONS**

#### **Proclamation in Appreciation of Outstanding Public Service by Daniel Mannisto, Finance Commissioner**

Mayor Mathewson noted that Mr. Mannisto would be in attendance later in the evening, and this item would be continued until he was present.

#### **Proclamation in Appreciation of the Belmont Park Boosters 30th Anniversary Concert Series**

Mayor Mathewson presented the proclamation to the Belmont Park Boosters in recognition of its 30<sup>th</sup> anniversary of the Summer Concert Series at Twin Pines Park.

**Judy King**, President, Belmont Park Boosters, stated that Park Boosters was looking for younger members in order to continue the tradition.

#### **Proclamation Recognizing Community Service provided by Belmont's Youth Group VOICES**

Mayor Mathewson presented a proclamation to the Belmont youth group, VOICES, in recognition of its community service activities.

**Yasmine Koury**, VOICES Director, stated that the current and former members of VOICES are smart, passionate, and giving students. The students each introduced themselves and indicated where they would be attending school next year.

#### **PUBLIC COMMENTS AND ANNOUNCEMENTS**

**Judie Davis**, Belmont Park Boosters, announced that the 30<sup>th</sup> Anniversary Concert Series would begin on Sunday, June 17<sup>th</sup>. She provided concert flyers, and noted the new banner that was hanging across Ralston Avenue announcing the concerts.

**John Violet**, Friends of the Belmont Library (FOBL), announced that FOBL's annual meeting would be held on June 21<sup>st</sup>, at which time new board members would be elected. He also announced FOBL's upcoming speaker series.

**Bill Schoening**, Belmont resident, stated that Marburger Road used to be 30 feet wide, but was reduced to 9 feet due to a recent slide. He noted there are no storm drains on the street, and the City allowed homes to be built without road improvements. A dirt trench is seeping but not catching water, and needs to be lined and kept clean. Water from other properties is draining onto Marburger. There was an overflow of a sewer cleanout. PG&E and Mid-Peninsula Water have trenched the street. This area is the only emergency access to the San Juan Canyon. He stated he has a letter from a former city manager advising that Marburger Road was accepted by the City without maintenance.

**Molly Samietz**, Belmont resident, stated that the city is responsible for Marburger Road since it accepted the street. The residents expect fair and equitable treatment. She expressed concern regarding fire protection. There are overgrown weeds in the area. There is no escape route. Safety is compromised. The road was maintained by the residents until the recent slide occurred.

**Jeff Marshall**, Belmont resident, stated he is not directly affected by the Marburger Road slide, but that he supports his neighbors. Roads in the area were built decades ago and need to be maintained, even though they affect only one or two homes. Drainage is a constant problem.

Mayor Mathewson stated that since this item is not on the agenda, Council cannot discuss this issue, but it would be directed to staff to address.

Councilmember Warden stated he visited the area, and noted it is a substantial slide.

Councilmember Feierbach expressed concern regarding safety, since this area affects the entire San Juan Canyon.

### **COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS**

Mayor Mathewson announced that the City was currently recruiting for two Finance Commissioners, and the deadline for applying is June 30<sup>th</sup>. He invited the public to a grand opening celebration for the new Belameda Park adjacent to the new library on June 24<sup>th</sup>. He also announced that there would be a Pasta and Pirate Dinner on June 23<sup>rd</sup> at the Twin Pines Senior and Community Center.

**RECESS**                    **8:10 P.M.** to consider the Belmont Fire Protection District agenda

**RECONVENE**            **9:50 P.M.**

### **CONSENT CALENDAR**

**Approval of** Minutes of the Special Meeting of March 10, 2006 (Closed Session), Special and Regular Meeting of May 9, 2006, Special Meeting of May 19, 2006 (Closed Session), Special and Regular Meeting of May 23, 2006, and Special Meeting of May 30, 2006 (Commission Interviews).

**Adoption of** Ordinance 1016 Establishing Section 30 of the Municipal Code Administrative Citation and Hearing Process (2nd reading and adoption)

**Approval of** Resolution 9781 Authorizing the City Manager to Execute the Third Amendment to the Grade Separation Development Agreement

**Approval of** Resolution 9782 Opposing AB 2987 -- The Digital Infrastructure and Video Competition Act of 2006

**Approval of** Resolution 9783 Approving the Filing of the Transportation for Livable Communities Grant Application for the Highway 101 Bicycle/Pedestrian Bridge Project, City Contract No. 433 in the Amount of \$3,000,000

**ACTION:** On a motion by Councilmember Warden, seconded by Councilmember Feierbach, the Consent Agenda was unanimously approved by a show of hands.

## **HEARINGS**

**Public Hearing to review Planning Commission action from April 18, 2006, Public Hearing regarding Conditional Use Permit (McDonald's). Call up pursuant to Municipal Code Section 1-11 (continued from 5/23/06).**

Community Development Director de Melo stated that this item was continued in order to provide additional documentation, including a lighting and security camera plan, information regarding other 24-hour operations in Belmont, information regarding other 24-hour McDonald's, and to outline other potential 24-hour uses. He noted that the Council could approve, overturn, or modify the Planning Commission approval of this request.

In response to Councilmember Feierbach, Community Development Director de Melo clarified that this McDonald's was not a franchise, but an individually-owned corporate store. He also stated that recent Conditional Use Permit violations included operating for 24 hours for approximately a month, and opening earlier than the permitted 7:00 a.m. opening for several months.

Mayor Mathewson stated that Belmont is a small town, tranquil and safe. An entity operating 24 hours violates the spirit of this vision. He noted there is only one 24-hour McDonald's operating in San Mateo County. He is concerned regarding the use of public safety for late night problems, and noted that a 24-hour fast-food restaurant in San Carlos has experienced problems. This will increase urbanization, and other establishments might request 24-hour operations should this request be approved.

Mayor Mathewson opened the Public Hearing.

**Andy Faber**, on behalf of McDonald's Corporation, stated they were seeking an earlier opening for McDonald's restaurant, and 24-hour operations for the drive-up window. He noted the Planning

Commission approved the application by a vote of 3-1, with conditions. McDonald's has been a good corporate citizen in Belmont since 1964. Customers are requesting early and late hours. Local customers will be the primary service base. He described the restaurant operations for a 24-hour shop. He commented that the surveillance camera requirement would be a substantial investment, but it was willing to comply with the Police Department request for the cameras. The restaurant has had no safety problems, and none are anticipated with the change in hours. Not all McDonald's are suitable for 24 hours. This shop is not close to homes, and there is a fence between the restaurant and the school, which is uphill from the store.

**Chris Wozniak**, Planning Commissioner, stated she was unable to make two of the required findings for approval. This restaurant is near Central Elementary School, and the open area between it and the school is a hangout where there is a lot of trash. A 24-hour operation is a bad idea which will have an adverse affect on the community. She agrees with the Mayor's comments regarding urbanization. It does not enhance the small-town atmosphere and does not fit with the character of Belmont.

**David Long**, President, Central Neighborhood Association (CNA)/former Planning Commissioner, stated that CNA does not support this application. Becoming urbanized should be a conscious decision of the City Council. He supports the 5:30 a.m. opening, but is opposed to the 24-hour or later hour operation. He recommends that McDonald's spend the \$27,000 earmarked for video cameras for additional landscaping. A 24-hour operation would place an undue burden on services and is not in accordance with the General Plan.

**Andy Faber**, McDonalds, responded that three other Commissioners made the findings. Urban versus suburban is not the issue of this Conditional Use Permit (CUP) request. There are no security problems. He recognizes there are subjective issues with this application. Findings should be made with evidence at hand. If there are larger issues, they should be taken up separately.

**ACTION**: On a motion by Councilmember Warden, seconded by Councilmember Dickenson, the Public Hearing was unanimously closed by a show of hands.

Councilmember Feierbach stated she objected to McDonald's prior violations of its CUP; therefore is not a good corporate citizen. She cannot make the findings regarding the general welfare of the community. Belmont has a gang problem, and this would be a place to congregate during late-night hours. She supports the 5:30 a.m. opening, but wants to keep the evening hours as is. There are no 24-hour operations in the surrounding businesses, so this would not be compatible.

Councilmember Lieberman stated there were valid concerns expressed by Planning Commissioners, but none felt this request would have a big impact. Public safety is a concern, but a 24-hour operation is not a public safety issue. He supported monitoring the new hours for a certain time period, and to pull the permit if there are problems. Not everyone has day jobs, and the late hours are likely to serve Belmont residents. McDonald's is not near residences. He supports the application, and would recommend adding a review period.

Councilmember Warden stated that the City Council has attempted to invoke a prohibition on 24-hour operations, and he would not have voted for any of the others currently in operation. This request is not compatible with land uses in the area. He has an issue with the general welfare of the community, and expressed concern regarding a proliferation of other 24-hour requests.

Councilmember Dickenson stated he supports the Planning Commission's decision. He noted he was the one who reported the 24-hour violation.

**MEETING EXTENSION:** at this time, being 10:30 p.m., on a motion by Councilmember Warden, seconded by Councilmember Dickenson, the meeting was unanimously extended for 30 minutes by a show of hands.

In response to Council questions, Community Development Director de Melo outlined the conditions regarding lighting, signage, and Police Department monitoring. The Police Department can review the CUP if there are problems. The Planning Commission or City Council can revoke a CUP for non-performance. The surveillance camera requirement was added as a response to concerns. He noted this is not required in other 24-hour operations.

City Attorney Zafferano clarified that after a 90-day monitoring period, the Police Department can require the addition of security personnel if there are problems. He described the mechanism for a review of a CUP. Additional conditions can be included for this application, and there is a need to set an unambiguous standard.

Mayor Mathewson stated that additional lighting and cameras is not compatible with the surrounding land uses. The general welfare finding is not made in this case.

**ACTION:** On a motion by Councilmember Feierbach, seconded by Councilmember Warden, and approved by a roll call vote (Lieberman/Dickenson no) to overturn and deny the Conditional Use Permit for McDonald's based on the inability to affirmatively make findings (a) and (d), and to approve the 5:30 a.m. opening.

**SPECIAL PRESENTATIONS** (continued)

Mayor Mathewson presented the Proclamation to outgoing Finance Commissioner Mannisto.

Councilmember Lieberman stated that he served on the Finance Commission for five years with Commissioner Mannisto, and thanked him for his financial insights.

Dan Mannisto, outgoing Finance Commissioner, stated that he enjoyed his 20 years of service.

**Reconvene Public Hearings for the Belmont Fire Protection District and Redevelopment Agency and**

**Convene Public Hearing for City of Belmont to consider proposed budget for Fiscal Year 2006-07**

Finance Director Fil reviewed Gann Limit calculations. He noted that the Master Fee Schedule has been modified to reflect cost of living adjustments and increases in hourly rates where appropriate. Fees in the Development Services area were raised by 8 percent in order to close the funding gap. He clarified that this raise reflected half of the amount needed, and additional raises would be necessary in subsequent years. He explained the implementation of the General Plan special fee. He reviewed the recommended sewer service charge table, and noted that street sweeping has been added as a component of the solid waste program. Per Council direction, a one-time increase is reflected to cover the increased cost. Council action is required annually to implement the Library bond fee on property taxes.



Finance Director Fil reviewed revenues, expenditures, forecast trends and projections. He noted that Belmont has a positive long-term projection. The Finance Commission unanimously approved the Budget, but desires to further review the financial policies, so that document will be forthcoming for Council approval.

Councilmember Feierbach stated she would like the City to fund a scaled-down version of the Kiosk project. She noted that the grant, obtained by the Central Neighborhood Association, may be lost if it is not completed. This project should be completed or the property abandoned.

Councilmember Warden recommended that the City undertake and manage the project, although the Kiosk committee could be consulted.

Interim Parks and Recreation Director Bridges stated that the adjacent church has committed to two years of maintenance. He noted that funding this project would not jeopardize others in the queue in the Capital budget. Finance Director Fil noted that funds could be reallocated from another project.

Council concurred to fund and manage the Kiosk project in the next fiscal year.

Councilmember Warden commented that he supports the increase in the Planning Commission appeal fee. He noted that nonprofit organizations and residents should be able to use the Community Room at the new library at no charge. There was an implication during the library bond campaign that this room would be available to residents.

**MEETING EXTENSION:** at this time, being 11:00 p.m., on a motion by Mayor Mathewson, seconded by Councilmember Dickenson, the meeting was unanimously extended for 30 minutes by a show of hands.

Interim Parks and Recreation Director Bridges stated that use of the Community Room requires City staff if used when the library is closed in order to open and close, and empty trash and clean the room if food is served. There is a desire to treat similar groups the same. Finance Director Fil noted that this is not intended as a revenue source, but there is a charge to recover costs.

**ACTION:** On a motion by Councilmember Warden, seconded by Councilmember Feierbach, and unanimously approved by a show of hands to waive the use cost of the Community Room at the library for nonprofit organizations and residents if used during regular library hours and no food is served.

**ACTION:** Councilmember Lieberman made a motion, seconded by Councilmember Feierbach, to round the dollar figures in the Master Fee schedule up or down to eliminate the pennies.

City Attorney Zafferano stated that this may require additional staff analysis, which could delay the implementation of new fees.

Councilmember Lieberman withdrew his motion and noted this action should be considered during next year's production of the Master Fee schedule.

In response to Mayor Mathewson, Finance Director Fil stated that the 2 percent increase reflected in the majority of the fee increases is based on speculation and best guess.

In response to Councilmember Dickenson's question regarding fees for excessive discharge into the sewer cleanout, Public Works Director Davis clarified that fees are based on water use, and any excessive discharge will naturally result in additional fees.

Discussion ensued regarding the sewer charge deficit. Finance Director Fil described the pay-down process using the one-time increase. He also noted that excessive use can be charged, by incident, per the Master Fee schedule.

Discussion ensued regarding encroachment permit charges. Public Works Director Davis noted that it is no longer cost effective to charge an annual fee. Finance Director Fil clarified that the issue is collecting for this, not billing.

In response to Councilmember Dickenson's question regarding emergency cost recovery, Police Chief Mattei stated that new laws restrict cost recovery, and can only be done in limited circumstances. City Attorney Zafferano clarified that the courts have restricted a city's ability to recover costs.

Mayor Mathewson opened the Public Hearing.

**Stacey Wagner**, Allied Waste, described previous increases in solid waste fees, and noted the increase being considered was 25 percent. This will impact the franchise. She expressed concern regarding retroactive payment. Customers will be concerned regarding the high increase, and she recommended a letter be sent to explain this.

In response to Mayor Mathewson, Finance Director Fil stated that if the increase is not retroactive, the deficit gap will be carried into the next year's budget. He noted that fees are reviewed annually.

**ACTION:** On a motion by Councilmember Feierbach, seconded by Councilmember Lieberman, the Public Hearings were unanimously closed by a show of hands.

**MEETING EXTENSION:** at this time, being 11:30 p.m., on a motion by Councilmember Lieberman, seconded by Mayor Mathewson, the meeting was unanimously extended for 30 minutes by a show of hands.

**ACTION:** On a motion by Director Feierbach, seconded by Director Lieberman, Belmont Fire Protection Resolution 2006-4 Approving the FY 2007 Budget (BFPD), was unanimously approved by a show of hands.

**ACTION:** On a motion by Director Dickenson, seconded by Director Warden, Belmont Fire Protection Resolution 2006-5 Establishing the Appropriation Limit for FY 2007 for the Belmont Fire Protection District was unanimously approved by a show of hands.

**ACTION:** On a motion by Director Warden, seconded by Director Dickenson, Redevelopment Agency Resolution 433 Approving the FY 2007 Budget (RDA), was unanimously approved by a show of hands.

**ACTION:** On a motion by Councilmember Warden, seconded by Councilmember Lieberman, Resolution 9784 Approving the FY 2007 Budget (City of Belmont), was unanimously approved by a show of hands.

**ACTION:** On a motion by Councilmember Warden, seconded by Councilmember Feierbach, City Council Resolution 9785 Establishing the Appropriation Limit for FY 2007 for the City of Belmont, was unanimously approved by a show of hands.

**ACTION:** On a motion by Councilmember Warden, seconded by Councilmember Lieberman, Resolution 9786 Approving the FY 2007 Master Fee Schedule was unanimously approved by a show of hands.

**ACTION:** On a motion by Councilmember Warden, seconded by Councilmember Feierbach, Resolution 9787 Setting Sewer/Storm Drain Rates to be collected by the County of San Mateo on the property tax roll, FY 2007 was unanimously approved by a show of hands.

In response to Councilmember Lieberman regarding retroactive charges for the sewer fees, Finance Director Fil recommended that the increase be effective September 1<sup>st</sup> with no retroactivity.

**ACTION:** On a motion by Councilmember Lieberman, seconded by Councilmember Feierbach, Resolution 9788 Adopting Solid Waste Collection Fees for FY 2007, effective July 1, 2006, with no retroactivity for initial billing cycles subsequent to July 1<sup>st</sup>, was approved by a show of hands (4-1, Dickenson no).

**ACTION:** On a motion by Councilmember Warden, seconded by Councilmember Feierbach, Resolution 9789 Establishing the Annual Special Tax for Community Facilities District No. 2000-1 (library project) for FY 2007 was unanimously approved by a show of hands.

Finance Director Fil noted that funding for the Kiosk project will be allocated in the Capital Improvement Program Budget, and the Master Fee schedule will note the waiver of fees for nonprofit groups using the Community Room at the library during regular library hours, with no food served.

**ADJOURNMENT:** At this time, being 11:35 P.M., the Belmont Fire Protection District and Belmont Redevelopment Agency Meetings were adjourned.

**Public Hearing to Consider a Resolution Approving Collection of Basic and Additional Charges by the San Mateo County Flood Control District to Fund the FY07 Countywide National Pollutant Discharge Elimination System General Program and Election to have Charges Collected on the Tax Roll**

Public Works Director Davis stated that this fee represented the City's share of the County program.

Mayor Mathewson opened the Public Hearing. No one came forward to speak.

**ACTION:** On a motion by Councilmember Warden, seconded by Councilmember Lieberman, the Public Hearing was unanimously closed by a show of hands.

**ACTION:** On a motion by Councilmember Warden, seconded by Councilmember Lieberman, Resolution 9790 Approving Collection of Basic and Additional Charges by the San Mateo County Flood Control District to Fund the FY07 Countywide National Pollutant Discharge Elimination System General Program and Election to have Charges Collected on the Tax Roll was unanimously approved by a show of hands.

**Public Hearing to Consider a Resolution Approving City of Belmont FY07 National Pollutant Discharge Elimination System Charges and Election to have Charges Collected on the Tax Roll**

Public Works Director Davis stated that these charges cover the City's program. He reviewed the activities covered, and noted that street sweeping was moved to another area and no longer covered under this program. There is no change to the \$30 per parcel charge.

**ACTION:** On a motion by Councilmember Warden, seconded by Councilmember Dickenson, the Public Hearing was unanimously closed by a show of hands.

**ACTION:** On a motion by Councilmember Warden, seconded by Councilmember Dickenson, Resolution 9791 Approving City of Belmont FY07 National Pollutant Discharge Elimination System Charges and Election to have Charges Collected on the Tax Roll was unanimously approved by a show of hands.

#### **MATTERS OF COUNCIL INTEREST/CLARIFICATION**

##### **Discussion regarding imposing a moratorium on Item 9's (Mathewson)**

Mayor Mathewson expressed concern that the volume of recent Item 9's has placed an undue burden on staff, and recommended a moratorium for three months.

Councilmember Warden stated that he has not had an Item 9 in some time, but he did not want to preclude the ability to add an item. He would commit to not placing any frivolous items on the agenda.

Councilmember Feierbach stated that the Planning Commission was developing a list of items for consideration, but she committed to being cognizant of overburdening staff with additional items.

There was no concurrence to place a moratorium on Item 9's.

##### **Review Top 10 - 911 Calls for service by location and to consider modifying ordinances, such as the false alarm calls (Dickenson)**

Councilmember Dickenson stated that the Master Fee schedule addresses fees for excessive false alarms, but he expressed concern regarding other high-intensive uses of the 9-1-1 system. He has met with Chief Mattei and the City Manager regarding this issue. He will defer this item to another time.

##### **Employee Parking Plan Downtown (Dickenson)**

Councilmember Dickenson stated that there was an issue regarding Safeway employees parking in the lot set aside for customer parking, since street parking in the area has time limits. He noted that the manager is amenable to working with Cal Train to provide employee parking.

In response to Councilmember Feierbach, Councilmember Dickenson noted that there is no fiscal impact at this time since it is just in the discussion phase. He does not feel any parking agreement would affect an increase in ridership on Cal Train.

Council concurred to schedule this at a future time for additional discussion and direction.

**Future Role of Finance Commission (Feierbach)**

Councilmember Feierbach stated that the Finance Commission has had recent discussion regarding its duties, and would like to meet with the City Council to discuss this matter.

City Clerk Cook stated that there are two vacancies on the Finance Commission which could be filled in July following the open application period. Waiting until there is a full contingency of Commissioners would be beneficial.

Council concurred to schedule a joint meeting in August, if feasible.

**ADJOURNMENT** at this time, being 11:50 p.m.

Terri Cook  
City Clerk

Meeting audio-recorded and videotaped

Audio Recording 639

Minutes approved 7/11/2006